

Hearing Date: October 1, 2009 at 2:00 PM  
Response Deadline: September 25, 2009 at 4:00 PM

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	: Chapter 11
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BH S&B HOLDINGS LLC, <u>et al.</u> ,	: Case No.: 08-14604 (MG)
	:
Debtors.	: Jointly Administered
	:
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**NOTICE OF HEARING ON DEBTORS' AND COMMITTEE'S  
JOINT SECOND OMNIBUS OBJECTION TO ADMINISTRATIVE CLAIMS**  
**(Administrative Claims Not Timely Filed)**

PLEASE TAKE NOTICE that, on August 28, 2009, the above-captioned debtors and debtors-in-possession (collectively, the "Debtors")<sup>1</sup> and the official committee of unsecured creditors appointed in these cases (the "Committee") filed their second omnibus objection (the "Objection") to administrative claims, relating to claims not timely filed, as detailed in the Objection.

PLEASE TAKE FURTHER NOTICE that a hearing (the "Hearing") on the Objection will be held before the Honorable Martin Glenn, United States Bankruptcy Court for the Southern District of New York, Room 501, One Bowling Green, New York, New York, on **October 1, 2009, at 2:00 PM (Prevailing Eastern Time)**.

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<sup>1</sup> The other Debtors in these cases are BHY S&B Intermediate Holdco LLC (Case No. 08-14605 (MG), EIN 26-3732361); BH S&B Retail LLC (Case No. 08-14606 (MG), EIN 26-2282554); BH S&B Lico LLC (Case No. 08-14607 (MG), EIN 26-3445450); Heritage Licensing LLC (Case No. 08-14608 (MG), EIN 26-3473212); Fashion Plate Licensing LLC (Case No. 08-14609 (MG), EIN 26-3473238); Cubicle Licensing LLC (Case No. 08-14610 (MG), EIN 26-3445507); and BH S&B Distribution LLC (Case No. 08-14611 (MG), EIN 26-3382611).

PLEASE TAKE FURTHER NOTICE that you should locate your name and claim in Exhibit A to the Objection.

PLEASE TAKE FURTHER NOTICE that responses, if any, to relief requested in the Objection must (i) be in writing, state the name of the objector, identify its interest in these cases, and set forth the grounds for the objection and the legal basis therefor and (ii) be filed with this Court and served in a manner so as to be received by the following parties, together with proof of service, on or before **September 25, 2009, at 4:00 PM (Prevailing Eastern Time)**: (a) counsel to the Debtors, Cahill Gordon & Reindel LLP, Eighty Pine Street, New York, New York 10005 (Attn: Joel H. Levitin, Esq., and Richard A. Stieglitz Jr., Esq.); (b) the United States Trustee, 33 White Hall Street, Suite 2100, New York, New York 10004 (Attn: Paul Schwartzberg, Esq.); and (c) counsel to the Committee, Arent Fox LLP, 1675 Broadway, New York, New York 10019 (Attn: Robert M. Hirsh, Esq.).

Dated: New York, New York  
August 28, 2009

Respectfully submitted,

CAHILL GORDON & REINDEL LLP

/s/ Richard A. Stieglitz, Jr.

Joel H. Levitin

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*Attorney for the Committee*

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*Attorneys for the Debtors and Debtors-in-Possession*

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**DEBTORS' AND COMMITTEE'S  
JOINT SECOND OMNIBUS OBJECTION TO ADMINISTRATIVE CLAIMS  
(Administrative Claims Not Timely Filed)**

The above-captioned debtors and debtors-in-possession (collectively, the “Debtors”)<sup>1</sup> and the official committee of unsecured creditors appointed in these cases (the “Committee”), by and through their undersigned attorneys, hereby jointly file this second omnibus objection (the “Objection”) to the administrative claims listed on Exhibit A (collectively, the “Untimely Claims”) attached hereto. In support of the relief requested in this Objection, the Debtors and the

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<sup>1</sup> The other Debtors in these cases are BHY S&B Intermediate Holdco LLC (Case No. 08-14605 (MG), EIN 26-3732361); BH S&B Retail LLC (Case No. 08-14606 (MG), EIN 26-2282554); BH S&B Lico LLC (Case No. 08-14607 (MG), EIN 26-3445450); Heritage Licensing LLC (Case No. 08-14608 (MG), EIN 26-3473212); Fashion Plate Licensing LLC (Case No. 08-14609 (MG), EIN 26-3473238); Cubicle Licensing LLC (Case No. 08-14610 (MG), EIN 26-3445507); and BH S&B Distribution LLC (Case No. 08-14611 (MG), EIN 26-3382611).

Committee respectfully represent as follows:

### **JURISDICTION**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these cases and this Objection in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicate for the relief requested herein is Bankruptcy Rule 3007.

### **INTRODUCTION**

2. On November 19, 2008 (the “Petition Date”), the Debtors each filed with this Court separate, voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, and on November 21, 2008, the Court entered an order jointly administering the Debtors’ cases. The Debtors continue to manage their properties and operate their business as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

3. On November 26, 2008, the Office of the United States Trustee appointed the Committee. No trustee or examiner has been appointed in these cases.

4. Prior to the Petition Date, the Debtors determined that the appropriate course of action to maximize value for the benefit of all of their stakeholders in the current difficult retail market was an orderly liquidation in Chapter 11, and to that end, they commenced “going out of business” sales in their stores. The Debtors concluded these sales as of January 16, 2009, and they are currently winding down their estates, including reconciling outstanding administrative claims.

### **FACTUAL BACKGROUND AND GROUNDS FOR OBJECTION**

5. On February 11, 2009, the Court entered an order (the “Bar Date Order”) establishing, among other things, March 30, 2009, at 5:00 PM (Prevailing Eastern Time), as the last date and time for creditors, other than governmental units, to timely file proofs of claim

(each, a “Proof of Claim”) based on, among other things, purported administrative claims against the Debtors under Bankruptcy Code § 503(b). Pursuant to the Bar Date Order, all Proofs of Claim were to be “received on or before the applicable Bar Date by the official noticing and claims agent in the Debtors’ Chapter 11 cases, Kurtzman Carson Consultants LLC,” and claimants submitting late claims will be “forever barred, estopped, and enjoined from asserting such claim against the Debtors.”

6. The Debtors have reviewed each of the Proofs of Claim related to the Untimely Claims, and they have concluded that each such Proof of Claim was filed after the Bar Date. Elimination of the Untimely Claims would enable the Debtors to maintain a claims register that more accurately reflects the claims that have been properly asserted against the Debtors and their estates.

7. Bankruptcy Rule 3007(d)(4) permits omnibus objections in situations involving claims filed after their applicable bar date. Accordingly, the Debtors and the Committee submit that the Court should disallow the Untimely Claims for the reasons set forth above.

### **NOTICE**

8. In accordance with this Court’s order approving notice procedures for these cases, notice of this Objection has been given via e-mail or first class United States mail, as appropriate, to the United States Trustee, counsel to the Debtors’ agent and post-petition secured lender, those claimants that filed the Untimely Claims, and all other parties that have filed notices of appearance and requested service of papers in these cases. The Debtors and the Committee submit that no other or further notice need be given under the circumstances.

### **RESERVATION OF RIGHTS**

9. Notwithstanding anything contained herein to the contrary, the Debtors and the Committee reserve the right to object to any of the Untimely Claims to the extent that they are

not disallowed or expunged, in which case separate notice would be given and hearings would be scheduled. Furthermore, the Debtors and the Committee reserve the right to amend, modify, or supplement this Objection, in which case the subject objected-to claimants would receive notice, and a new hearing would be scheduled.

**NO PRIOR APPLICATION**

10. No previous request for the relief sought herein has been made to this or any other Court.

## **CONCLUSION**

WHEREFORE, the Debtors and the Committee request that the Court enter an order, substantially in the form filed herewith, granting the relief requested herein and such other and further relief as may be just and proper under the circumstances.

Dated: New York, New York  
August 28, 2009

Respectfully submitted,

CAHILL GORDON & REINDEL LLP

/s/ Richard A. Stieglitz, Jr.

Joel H. Levitin

Richard A. Stieglitz, Jr.

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hirsh.robert@arentfox.com

*Attorney for the Committee*



## Exhibit A

### Untimely Claims<sup>1</sup>

Claimant Name	Claim No.	Date Filed	Reason for Disallowance	Mailing Address	Admin Claim Amount	Asserted Nature	Debtor Name
C. H. Robinson Worldwide, Inc.	577	3/31/2009	Untimely Claim	C. H. Robinson Worldwide, Inc. 14701 Charlson Road Eden Prairie, MN 55347	\$232,299.40	Administrative Priority	BH S&B Holdings LLC
City of Colorado Springs	666	7/13/2009	Untimely Claim	City of Colorado Springs - Sales Tax c/o City Attorney 30 S. Nevada Ave., Suite 501 Colorado Springs, CO 80901-1575	\$4,720.27	Administrative Priority	BH S&B Holdings LLC
City of Colorado Springs	667	7/20/2009	Untimely Claim	City of Colorado Springs - Sales Tax c/o City Attorney 30 S. Nevada Ave., Suite 501 Colorado Springs, CO 80901-1575	\$761.51	Administrative Priority	BH S&B Holdings LLC
Mary J. Griess	648	4/23/2009	Untimely Claim	Mary J. Griess 2421 Cheshire North Lincoln, NE 68512	\$7,319.98	Administrative Priority	BH S&B Holdings LLC
Illinois Department of Revenue	665	7/21/2009	Untimely Claim	Illinois Department of Revenue Bankruptcy Unit 100 W. Randolph St., #7-400 Chicago, IL 61601	\$16,546.40	Administrative Priority	BH S&B Retail, LLC
KeySpan Gas East Corp. dba National Grid	619	4/03/2009	Untimely Claim	Elisa M. Pugliese, Esq. 175 E. Old Country Road Hicksville, NY 11801	\$651.16	Administrative Priority	BH S&B Holdings LLC

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<sup>1</sup> The grounds to objecting to each untimely claim can be found on pages 2-4 of the underlying objection.

<b>Claimant Name</b>	<b>Claim No.</b>	<b>Date Filed</b>	<b>Reason for Disallowance</b>	<b>Mailing Address</b>	<b>Admin Claim Amount</b>	<b>Asserted Nature</b>	<b>Debtor Name</b>
New York State Department of Taxation and Finance	660	6/18/2009	Untimely Claim	New York State Department of Taxation and Finance Bankruptcy Section PO Box 5300 Albany, NY 12205-0300	\$97,716.45	Administrative Priority	BH S&B Retail, LLC
Pyramid Walden Company, L.P.	638	4/27/2009	Untimely Claim	Menter, Rudin & Trivelpiece, P.C. Attn: Kevin M. Newman, Esq. 308 Maltbie Street, Suite 200 Syracuse, NY 13204-1498	\$3,128.00	Administrative Priority	BH S&B Holdings LLC
State Board of Equalization	653	5/19/2009	Untimely Claim	State Board of Equalization Special Procedures Section, MIC:55 PO Box 942879 Sacramento, CA 94279-0055	\$2,037.00	Administrative Priority	BH S&B Retail, LLC
Texas Workforce Commission	661	6/15/2009	Untimely Claim	John Moore Regulatory Integrity Division, TWC 101 E 15th St., Room 556 Austin, TX 78778-0001	\$1,490.36	Administrative Priority	BH S&B Retail, LLC
Thor Macomb Mall LLC	580	4/03/2009	Untimely Claim	Thor Macomb Mall LLC c/o Matalon Shweky Elman PLLC Attn: Joseph Lee Matalon 450 Seventh Ave., Suite 1409 New York, NY 10123	\$25,441.24	Administrative Priority	BH S&B Holdings LLC
Thor Eastpoint Mall LLC	581	4/03/2009	Untimely Claim	Thor Eastpoint Mall LLC c/o Matalon Shweky Elman PLLC Attn: Joseph Lee Matalon 450 Seventh Ave., Suite 1409 New York, NY 10123	\$55,738.83	Administrative Priority	BH S&B Holdings LLC

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**ORDER GRANTING DEBTORS' AND COMMITTEE'S JOINT  
SECOND OMNIBUS OBJECTION TO ADMINISTRATIVE CLAIMS**  
**(Administrative Claims Not Timely Filed)**

Upon the joint second omnibus objection (the "Objection")<sup>1</sup> of the Debtors and the Committee to the administrative claims set forth in Exhibit A to the Objection; and the Court having jurisdiction to consider the Objection and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and the Court having found that good and sufficient cause exists for granting the Objection; and upon the record of these Chapter 11 cases and any hearings held to consider the Objection; and it appearing that each untimely claim was filed after the Bar Date; and it appearing that the relief requested in the Objection is appropriate in the context of these cases and in the best interests of the Debtors and their respective estates, their creditors, and all other parties-in-interest; and it appearing that notice of the Objection was adequate and proper under the circumstances of these cases, and it appearing that no other or further notice need be given; it is hereby

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meaning set forth in the Objection.

ORDERED that the Untimely Claims listed on Exhibit A to the Objection are hereby disallowed and expunged; and it is further

ORDERED that nothing in the Objection or this Order shall be construed as a waiver of the Debtors' or the Committee's right to object to the Untimely Claims on other grounds or to amend the Objection; and it is further

ORDERED that the Debtors and the Committee are authorized to take all actions necessary to effectuate the terms of this Order; and it is further

ORDERED that the terms and conditions of this Order shall be immediately enforceable and effective upon its entry; and it is further

ORDERED that the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: \_\_\_\_\_, 2009  
New York, New York

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HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE